

**Introduced by Committee on Revenue and Taxation
(Senators Alpert (Chair), Greene, Karnette, Knight, Kopp,
and McPherson)**

February 28, 1997

An act to amend Sections 8255, 9255, 46751, 50112.2, 50113, 50161, 60120, 60121, 60361, 60608, and 60609 of, to add Sections 9255.1, 50162, and 60105 to, to add Article 4.5 (commencing with Section 40086) to Chapter 4 of Part 19 of, Article 4.5 (commencing with Section 41084.1) to Chapter 4 of Part 20 of, Article 2.5 (commencing with Section 50113.5) to Chapter 3 of Part 26 of, and Chapter 9 (commencing with Section 50171) to Part 26 of, Division 2 of, and to repeal Sections 60104 and 60709 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1102, as introduced, Committee on Revenue and Taxation. Taxation.

The Motor Vehicle Fuel License Tax Law, the Use Fuel Tax Law, the Oil Spill Response, Prevention, and Administration Fees Law, the Underground Storage Tank Maintenance Fee Law, and the Diesel Fuel Tax Law, among other things, authorize the State Board of Equalization to disclose specified tax information, as provided.

This bill would authorize the board to furnish specified motor fuel tax information to other specified governmental agencies that are investigating violations of, and enforcing, motor fuel laws, as provided.

The Sales and Use Tax Law, the Motor Vehicle Fuel License Tax Law, the Use Fuel Tax Law, the Private Railroad Car Tax

Law, the Cigarette and Tobacco Products Tax Law, the Alcoholic Beverage Tax Law, the Timber Yield Tax Law, the Hazardous Substances Tax Law, the Oil Spill Response, Prevention, and Administration Fees Law, the Underground Storage Tank Maintenance Fee Law, and the Diesel Fuel Tax Law permit the State Board of Equalization, if that board believes that an amount to be collected or paid under those laws may be jeopardized by delay, to determine the amount due, which is then immediately due and payable. Those provisions impose interest and penalties if the amount is not paid within 10 days, and permit a person to petition for redetermination and to request a hearing, as specified.

This bill would extend those provisions allowing for jeopardy determinations by the board to the Energy Resources Surcharge Law and the Emergency Telephone Users Surcharge Law.

The Underground Storage Tank Maintenance Fee Law imposes specified penalties for violations of that law.

This bill would also make any violation of that law a misdemeanor punishable as provided and specify the procedures for making determinations of fees and prosecuting violations, as specified.

The Diesel Fuel Tax Law provides that any person that fails to provide or post the required notice with respect to any dyed diesel fuel is presumed to know for purposes of a specified penalty that the diesel fuel will be used for a taxable use. That law also provides that any person who willfully evades or attempts to evade or defeat the payment of taxes imposed by that law is subject to a specified penalty in specified circumstances.

This bill would, instead, apply specified penalties when, among other things, a person knows, or has reason to know, that they are using dyed diesel fuel in a taxable use.

The Diesel Fuel Tax Law requires every person operating a qualified motor vehicle in interstate commerce to apply for a license and post security, as specified.

This bill would provide that those requirements apply to every person operating a qualified motor vehicle within and without this state or the United States, and would make it unlawful for any person to be an interstate user without first



securing a license. It would provide additional monetary penalties and prescribe specified administrative procedures in connection thereto therewith.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8255 of the Revenue and
2 Taxation Code is amended to read:

3 8255. (a) Upon request from the officials to whom is
4 entrusted the enforcement of the motor fuel tax law of
5 another government the board or the Controller may
6 furnish to such officials such information in the possession
7 of the board or the Controller which is deemed essential
8 to the enforcement of the motor fuel tax laws.

9 Any information so furnished shall not be used for any
10 purpose other than that for which it was furnished.

11 (b) *The board may furnish to any state or federal*
12 *agency investigating violations of or enforcing any state*
13 *or federal law related to motor fuels any motor fuel*
14 *information in the possession of the board that is deemed*
15 *necessary for the enforcement of those laws.*

16 SEC. 2. Section 9255 of the Revenue and Taxation
17 Code is amended to read:

18 9255. It is unlawful for the board or any person having
19 an administrative duty under this part to make known in
20 any manner whatever the business affairs, operations, or
21 information obtained by an investigation of records and
22 equipment of any user visited or examined in the
23 discharge of official duty, or the amount or source of
24 income, profits, losses, expenditures, or any particular
25 thereof set forth or disclosed in any return, or to permit
26 any return or copy thereof or any book containing any

1 abstract or particulars thereof to be seen or examined by
2 any person *except to another government, state agency*
3 *or federal agency as specified in Section 9255.1.*
4 Information respecting the tax due from a user may be
5 furnished, however, to any person owning or having an
6 interest in a motor vehicle subject to the lien of the tax.
7 The Governor may, by general or special order, authorize
8 examination by other state officers, by tax officers of
9 another state, by the federal government, if a reciprocal
10 arrangement exists, or by any other person of the records
11 maintained by the board under this part. The information
12 so obtained pursuant to the order of the Governor shall
13 not be made public except to the extent and in the
14 manner that the order may authorize that it be made
15 public. Successors, receivers, trustees, executors,
16 administrators, assignees, and guarantors, if directly
17 interested, may be given information as to the items
18 included in the measure and amounts of any unpaid tax
19 or amounts of tax required to be collected, interest and
20 penalties.

21 Any violation of this section is a misdemeanor and is
22 punishable by a fine not exceeding one thousand dollars
23 (\$1,000), by imprisonment not exceeding one year, or by
24 both in the discretion of the court.

25 SEC. 3. Section 9255.1 is added to the Revenue and
26 Taxation Code, to read:

27 9255.1. (a) Upon request from the officials to whom
28 is entrusted the enforcement of the motor fuel tax law of
29 another government, the board may furnish to those
30 officials any information in the possession of the board
31 that is deemed essential to the enforcement of the motor
32 fuel tax laws. Any information so furnished shall not be
33 used for any purpose other than that for which it was
34 furnished.

35 (b) The board may furnish to any state or federal
36 agency investigating violations of or enforcing any state
37 or federal law related to motor fuels any motor fuel
38 information in the possession of the board that is deemed
39 necessary for the enforcement of those laws.



1 SEC. 4. Article 4.5 (commencing with Section 40086)
2 is added to Chapter 4 of Part 19 of Division 2 of the
3 Revenue and Taxation Code, to read:

4
5 Article 4.5. Jeopardy Determinations
6

7 40086. If the board believes that the collection of any
8 surcharge or any amount of surcharge required to be
9 collected and paid to the state or of any determination or
10 other amount required to be paid to the state will be
11 jeopardized by delay, it shall thereupon make a
12 determination of the surcharge or amount of surcharge
13 required to be collected or other amount, noting that fact
14 upon the determination. The amount determined is
15 immediately due and payable.

16 40087. If the amount specified in the determination is
17 not paid within 10 days after the service of notice thereof
18 upon the person against whom the determination is
19 made, the amount becomes final at the expiration of the
20 10 days, unless a petition for redetermination is filed
21 within the 10-day period, and the delinquency penalty
22 and the interest provided in Section 40101 shall attach to
23 the amount of the surcharge or the amount of the
24 surcharge required to be collected.

25 40088. The person against whom a jeopardy
26 determination is made may petition for the
27 redetermination thereof pursuant to Article 5
28 (commencing with Section 40091). He or she shall,
29 however, file the petition for redetermination with the
30 board within 10 days after the service upon him or her of
31 notice of the determination. The person shall also within
32 the 10-day period deposit with the board that security as
33 the board may deem necessary to ensure compliance
34 with this part. The security may be sold by the board at
35 public sale if it becomes necessary in order to recover any
36 amount due under this part.

37 40089. (a) In accordance with those rules and
38 regulations as the board may prescribe, the person
39 against whom a jeopardy determination is made may

1 apply for an administrative hearing for one or more of the
2 following purposes:

3 (1) To establish that the determination is excessive.

4 (2) To establish that the sale of property that may be
5 seized after issuance of the jeopardy determination, or
6 any part thereof, shall be delayed pending the
7 administrative hearing because the sale would result in
8 irreparable injury to the person.

9 (3) To request the release of all or a part of the
10 property to the person.

11 (4) To request a stay of collection activities.

12 (b) The application shall be filed within 30 days after
13 service of the notice of jeopardy determination and shall
14 be in writing and state the specific factual and legal
15 grounds upon which it is founded. No security is required
16 to be posted to file the application and to obtain this
17 hearing. However, if the person does not deposit within
18 the 10-day period prescribed in Section 40088, that
19 security as the board may deem necessary to ensure
20 compliance with the part, the filing of the application
21 shall not operate as a stay of collection activities, except
22 the sale of property seized after issuance of the jeopardy
23 determination. Upon a showing of good cause for failure
24 to file a timely application for an administrative hearing,
25 the board may allow a filing of the application and grant
26 the person an administrative hearing. The filing of an
27 application pursuant to this section shall not affect the
28 provisions of Section 40087, relating to the finality date of
29 the determination or to penalty or interest.

30 40090. Any notice required by this article shall be
31 served personally or by mail in the manner prescribed for
32 service of notice of a deficiency determination.

33 SEC. 5. Article 4.5 (commencing with Section
34 41084.1) is added to Chapter 4 of Part 20 of Division 2 of
35 the Revenue and Taxation Code, to read:

36

37 Article 4.5. Jeopardy Determinations

38

39 41084.1. If the board believes that the collection of any
40 surcharge or any amount of surcharge required to be



1 collected and paid to the state or of any determination or
2 other amount required to be paid to the state will be
3 jeopardized by delay, it shall thereupon make a
4 determination of the surcharge or amount of surcharge
5 required to be collected or other amount, noting that fact
6 upon the determination. The amount determined is
7 immediately due and payable.

8 41084.2. If the amount specified in the determination
9 is not paid within 10 days after the service of notice
10 thereof upon the person against whom the determination
11 is made, the amount becomes final at the expiration of the
12 10 days, unless a petition for redetermination is filed
13 within the 10-day period, and the delinquency penalty
14 and the interest provided in Section 41095 shall attach to
15 the amount of the surcharge or the amount of the
16 surcharge required to be collected.

17 41084.3. The person against whom a jeopardy
18 determination is made may petition for the
19 redetermination thereof pursuant to Article 5
20 (commencing with Section 41085). He or she shall,
21 however, file the petition for redetermination with the
22 board within 10 days after the service upon him or her of
23 notice of the determination. The person shall also within
24 the 10-day period deposit with the board that security as
25 it may deem necessary to ensure compliance with this
26 part. The security may be sold by the board at public sale
27 if it becomes necessary in order to recover any amount
28 due under this part.

29 41084.4. (a) In accordance with those rules and
30 regulations as the board may prescribe, the person
31 against whom a jeopardy determination is made may
32 apply for an administrative hearing for one or more of the
33 following purposes:

34 (1) To establish that the determination is excessive.

35 (2) To establish that the sale of property that may be
36 seized after issuance of the jeopardy determination or any
37 part thereof shall be delayed pending the administrative
38 hearing because the sale would result in irreparable
39 injury to the person.

1 (3) To request the release of all or a part of the
2 property to the person.

3 (4) To request a stay of collection activities.

4 (b) The application shall be filed within 30 days after
5 service of the notice of jeopardy determination and shall
6 be in writing and state the specific factual and legal
7 grounds upon which it is founded. No security is required
8 to be posted to file the application and to obtain this
9 hearing. However, if the person does not deposit within
10 the 10-day period prescribed in Section 41084.3, that
11 security as the board may deem necessary to ensure
12 compliance with this part, the filing of the application
13 shall not operate as a stay of collection activities, except
14 sale of a property seized after issuance of the jeopardy
15 determination. Upon a showing of good cause for failure
16 to file a timely application for an administrative hearing,
17 the board may allow a filing of the application and grant
18 the person an administrative hearing. The filing of an
19 application pursuant to this section shall not affect the
20 provisions of Section 41084.2, relating to the finality date
21 of the determination or to penalty or interest.

22 41084.5. Any notice required by this article shall be
23 served personally or by mail in the manner prescribed for
24 service of notice of a deficiency determination.

25 SEC. 6. Section 46751 of the Revenue and Taxation
26 Code is amended to read:

27 46751. (a) The board shall provide any and all
28 information obtained under this part to the Department
29 of Fish and Game.

30 (b) The Department of Fish and Game and the board
31 may utilize any information obtained pursuant to this
32 part to develop data on oil spill prevention, abatement,
33 and removal within the state. Notwithstanding any other
34 provision of this section, the Department of Fish and
35 Game may make oil spill prevention, abatement, and
36 removal public.

37 (c) It shall be unlawful for the board, or any person
38 having an administrative duty under Chapter 7.4
39 (commencing with Section 8670.1) of Division 1 of Title
40 2 of the Government Code or Division 7.8 (commencing

1 with Section 8750) of the Public Resources Code to make
 2 known, in any manner whatever, the business affairs,
 3 operations, or any other information pertaining to a
 4 feepayer which was submitted to the board in a report or
 5 return required by this part, or to permit any report or
 6 copy thereof or any book containing any abstract or
 7 particulars thereof to be seen or examined by any person
 8 not expressly authorized by subdivision (a), *subdivision*
 9 *(d)*, and this subdivision. However, the Governor may, by
 10 general or special order, authorize examination of the
 11 records maintained by the board under this part by other
 12 state officers, by officers of another state, by the federal
 13 government, if a reciprocal arrangement exists, or by any
 14 other person. The information so obtained pursuant to
 15 the order of the Governor shall not be made public except
 16 to the extent and in the manner that the order may
 17 authorize that it be made public.

18 *(d) The board may furnish to any state or federal*
 19 *agency investigating violations of or enforcing any state*
 20 *or federal law related to crude oil and petroleum products*
 21 *any crude oil and petroleum products information in the*
 22 *possession of the board that is deemed necessary for the*
 23 *enforcement of those laws.*

24 ~~(d)~~

25 *(e)* Notwithstanding subdivision (c), the successors,
 26 receivers, trustees, executors, administrators, assignees,
 27 and guarantors, if directly interested, may be given
 28 information regarding the determination of any unpaid
 29 fee or the amount of fees, interest, or penalties required
 30 to be collected or assessed.

31 ~~(e)~~

32 *(f)* Nothing in this section shall be construed as
 33 limiting or increasing the public's access to information
 34 on any aspect of oil spill prevention, abatement, and
 35 removal collected pursuant to other state or local laws,
 36 regulations, or ordinances.

37 SEC. 7. Section 50112.2 of the Revenue and Taxation
 38 Code is amended to read:

39 50112.2. (a) If the board finds that a person's failure
 40 to make a timely report or payment is due to reasonable

1 cause and circumstances beyond the person's control, and
2 occurred notwithstanding the exercise of ordinary care
3 and the absence of willful neglect, the person may be
4 relieved of the penalty provided by Section 50112 *and*
5 *50113.5*.

6 (b) Any person seeking to be relieved of the penalty
7 ~~provided by Section 50112~~ shall file with the board a
8 statement, under penalty of perjury, setting forth the
9 facts upon which he or she bases his or her claim for relief.

10 SEC. 8. Section 50113 of the Revenue and Taxation
11 Code is amended to read:

12 50113. (a) If the board is dissatisfied with the report
13 filed or the amount of fee paid to the board under this part
14 by any fee payer, ~~or if no report has been filed or no~~
15 ~~payment or payments of the fees have been made to the~~
16 ~~state by a fee payer,~~ the board may compute and
17 determine the amount to be paid, based upon any
18 information available to it. One or more additional
19 determinations may be made of the amount of fee due for
20 one, or for more than one, period. The amount of fee so
21 determined shall bear interest at the modified rate per
22 month, or fraction thereof, established pursuant to
23 Section 6591.5, from the date the amount of the fee, or any
24 portion thereof, became due and payable until the date
25 of payment. In making a determination, the board may
26 offset overpayments for a period or periods against
27 underpayments for another period or periods and against
28 the interest and penalties on the underpayments.

29 (b) If any part of the deficiency for which a
30 determination of an additional amount due is made is
31 found to have been occasioned by negligence or
32 intentional disregard of this part or regulations adopted
33 by the board pursuant to this part, a penalty of 10 percent
34 of the amount of that determination shall be added, plus
35 interest as provided in subdivision (a).

36 (c) If any part of the deficiency for which a
37 determination of an additional amount due is made is
38 found to be occasioned by fraud or an intent to evade this
39 part or regulations adopted pursuant to this part, a
40 penalty of 25 percent of the amount of the determination

1 shall be added, plus interest as provided in subdivision
2 (a).

3 (d) The board shall give to the fee payer written notice
4 of its determination. The notice shall be placed in a sealed
5 envelope, with postage paid, addressed to the fee payer
6 at the fee payer's address as it appears in the records of
7 the board. The giving of the notice shall be deemed
8 complete at the time of the deposit in a United States Post
9 Office, or a mailbox, subpost office, substation, mail chute,
10 or other facility regularly maintained or provided by the
11 United States Postal Service, without extension of time for
12 any reason. In lieu of mailing, the board may serve notice
13 personally by delivering to the person to be served, and
14 service shall be deemed complete at the time of delivery.
15 The board may make personal service to a corporation by
16 delivering a notice to any person designated in the Code
17 of Civil Procedure to be served for the corporation with
18 a summons and complaint in a civil action.

19 SEC. 9. Article 2.5 (commencing with Section
20 50113.5) is added to Chapter 3 of Part 26 of Division 2 of
21 the Revenue and Taxation Code, to read:

22
23 Article 2.5. Determinations if no Return Made
24

25 50113.5. If any fee payer fails to make a return, the
26 board shall make an estimate of the amount of fee to be
27 paid. The estimate shall be made for the period or periods
28 in respect to which the person failed to make a return and
29 shall be based upon any information which is in the
30 board's possession or may come into its possession. Upon
31 the basis of this estimate, the board shall compute and
32 determine the amount of fee or other amount required
33 to be paid to the state, adding to the sum thus arrived at
34 a penalty equal to 10 percent thereof. One or more
35 determinations may be made for one or more than one
36 period. When a business is discontinued, a determination
37 may be made at any time thereafter, within the periods
38 specified in Section 50113.1, as to liability arising out of
39 that business, irrespective of whether the determination

1 is issued prior to the due date of the liability as otherwise
2 specified in this part.

3 50113.6. In making a determination, the board may
4 offset overpayments for a period or periods, together with
5 interest on the overpayments, against underpayments for
6 another period or periods, against penalties, and against
7 the interest on the underpayments.

8 50113.7. The amount of the determination, exclusive
9 of penalties, shall bear interest at the modified adjusted
10 rate per month, or fraction thereof, established pursuant
11 to Section 6591.5, from the date the amount of the fee, or
12 any portion thereof, became due and payable until the
13 date of payment.

14 50113.8. If the failure of any person to file a return is
15 due to fraud or an intent to evade this part or regulations
16 adopted pursuant thereto, a penalty of 25 percent of the
17 amount required to be paid by the person, exclusive of
18 penalties, shall be added thereto in addition to the 10
19 percent penalty provided in Section 50113.5.

20 50113.9. Promptly after making its determination, the
21 board shall give to the person written notice of the
22 estimate, determination, and penalty. The notice shall be
23 served personally or by mail in the manner prescribed for
24 service of notice of a deficiency determination.

25 SEC. 10. Section 50161 of the Revenue and Taxation
26 Code is amended to read:

27 50161. Except as provided in subdivisions (b) and (c)
28 of Section 50159 *and* Section 50162, this chapter does not
29 limit or increase public access to information on any
30 aspect of petroleum contained in underground storage
31 tanks made available pursuant to any other state or local
32 law, regulation, or ordinance.

33 SEC. 11. Section 50162 is added to the Revenue and
34 Taxation Code, to read:

35 50162. (a) Upon request from the officials to whom is
36 entrusted the enforcement of the motor fuel tax law of
37 another government, the board may furnish to those
38 officials any information in the possession of the board
39 that is deemed essential to the enforcement of the motor
40 fuel tax laws. Any information so furnished shall not be



1 used for any purpose other than that for which it was
2 furnished.

3 (b) The board may furnish to any state or federal
4 agency investigating violations of or enforcing any state
5 or federal law related to motor fuels any motor fuel
6 information in the possession of the board that is deemed
7 necessary for the enforcement of those laws.

8 SEC. 12. Chapter 9 (commencing with Section 50171)
9 is added to Part 26 of Division 2 of the Revenue and
10 Taxation Code, to read:

11
12 CHAPTER 9. VIOLATIONS
13

14 50171. Any violation of this part is a misdemeanor.
15 Each offense shall be punished by a fine of not less than
16 one thousand dollars (\$1,000) nor more than five
17 thousand dollars (\$5,000), or by imprisonment in a county
18 jail not exceeding six months, or by both fine and
19 imprisonment in the discretion of the court.

20 50172. Any prosecution for violation of any of the
21 penal provisions of this part shall be instituted within
22 three years after the commission of the offense, or within
23 two years after the violation is discovered, whichever is
24 later.

25 SEC. 13. Section 60104 of the Revenue and Taxation
26 Code is repealed:

27 ~~60104. Any person that fails to provide or post the~~
28 ~~required notice with respect to any dyed diesel fuel is~~
29 ~~presumed to know, for purposes of the penalty imposed~~
30 ~~by Section 60709, that the diesel fuel will be used for a~~
31 ~~taxable use.~~

32 SEC. 14. Section 60105 is added to the Revenue and
33 Taxation Code, to read:

34 60105. (a) A penalty applies to any person who does
35 any of the following:

36 (1) Sells or holds for sale dyed diesel fuel for any use
37 that the person knows or has reason to know is a taxable
38 use of the diesel fuel.

(2) Holds for use or uses dyed diesel fuel for a use other than a nontaxable use and that person knew, or had reason to know, that the diesel fuel was so dyed.

(3) Knowingly alters, or attempts to alter, the strength or composition of any dye or marker in any dyed diesel fuel.

(4) Fails to provide or post the required notice with respect to any dyed diesel fuel. The failure to provide or post the required notice creates a presumption that the person so failing knows the diesel fuel will be used for a taxable use.

(b) The amount of the penalty for each violation specified in subdivision (a) is ten dollars (\$10) for every gallon of diesel fuel involved or one thousand dollars ((\$1,000)), whichever is greater. The penalty shall be increased for subsequent violations by multiplying the penalty amount by the number of prior violations.

(c) If a penalty is imposed under this section on any business entity, each officer, employee, or agent of the entity, who participated in any act giving rise to the penalty shall be jointly and severally liable with the entity for the penalty.

SEC. 15. Section 60120 of the Revenue and Taxation Code is amended to read:

60120. Every person operating a qualified motor vehicle ~~in interstate commerce within and without this state or the United States~~ shall apply to the board for a license on forms prescribed by the board. *It is unlawful for any person to be an interstate user without first securing a license.*

SEC. 16. Section 60121 of the Revenue and Taxation Code is amended to read:

60121. Before granting a license ~~authorizing a person to engage in business as~~ to an interstate user, the board may require the person to file with the board security pursuant to Section 60401. The license issued to any interstate user is not transferable and is valid until canceled or revoked.

SEC. 17. Section 60361 of the Revenue and Taxation Code is amended to read:

1 60361. (a) The board shall forthwith ascertain as best
 2 it may the amount of the diesel fuel removed, entered,
 3 sold, delivered, or used and shall determine immediately
 4 the tax on that amount, adding to the tax a penalty of 25
 5 percent of the amount of tax or five hundred dollars
 6 (\$500), whichever is greater, and shall give the
 7 unlicensed person notice of this determination as
 8 prescribed by Section ~~60173~~ 60340. However, where the
 9 board determines that the failure to secure a license was
 10 due to reasonable cause, the penalty may be waived.
 11 Sections 60331 and 60332 shall be applicable with respect
 12 to the finality of the determination and the right of the
 13 unlicensed person to petition for a redetermination.

14 Any person seeking to be relieved of the penalty shall
 15 file with the board a statement under penalty of perjury
 16 setting forth the facts upon which he or she bases the
 17 claim for relief.

18 (b) *In any case where the board does not determine*
 19 *an amount of tax due, the unlicensed person shall be*
 20 *subject to a penalty of one hundred dollars (\$100), which*
 21 *penalty shall be immediately due and payable. Each*
 22 *subsequent violation shall increase the penalty amount by*
 23 *one hundred dollars (\$100). The board shall serve the*
 24 *person with a notice of penalty assessment in the manner*
 25 *prescribed by Section 60340 for service of notice of a*
 26 *deficiency determination. However, if the board finds*
 27 *that the failure of the person to secure a license was due*
 28 *to reasonable cause, the board may waive the penalty. A*
 29 *person seeking to be relieved of the penalty shall file with*
 30 *the board a statement under penalty of perjury setting*
 31 *forth the facts upon which the request for relief is based.*

32 SEC. 18. Section 60608 of the Revenue and Taxation
 33 Code is amended to read:

34 60608. (a) Upon request from the officials to whom is
 35 entrusted the enforcement of the motor fuel tax law of
 36 another government, the board may furnish to those
 37 officials the information in the possession of the board
 38 that is deemed essential to the enforcement of the motor
 39 fuel tax laws.

1 Any information so furnished shall not be used for any
2 purpose other than that for which it was furnished.

3 *(b) The board may furnish to any state or federal*
4 *agency investigating violations of or enforcing any state*
5 *or federal law related to motor fuels any motor fuel*
6 *information in the possession of the board that is deemed*
7 *necessary for the enforcement of those laws.*

8 SEC. 19. Section 60609 of the Revenue and Taxation
9 Code is amended to read:

10 60609. It is unlawful for the board or any person
11 having an administrative duty under this part to make
12 known in any manner whatever the business affairs,
13 operations, or information obtained by an investigation of
14 records and equipment of any person visited or examined
15 in the discharge of official duty, or the amount or source
16 of income, profits, losses, expenditures, or any particular
17 thereof set forth or disclosed in any return, or to permit
18 any return or copy thereof or any book containing any
19 abstract or particulars thereof to be seen or examined by
20 any person except to another government, *state agency,*
21 *or federal agency as outlined specified* in Section 60608.
22 Information respecting the tax due from a person may be
23 furnished, however, to any person owning or having an
24 interest in a qualified motor vehicle or property subject
25 to the lien of the tax. The Governor may, by general or
26 special order, authorize examination by other state
27 officers, by tax officers of another state, by the federal
28 government, if a reciprocal arrangement exists, or by any
29 other person of the records maintained by the board
30 under this part. The information so obtained pursuant to
31 the order of the Governor shall not be made public except
32 to the extent and in the manner that the order may
33 authorize that it be made public. Successors, receivers,
34 trustees, executors, administrators, assignees, and
35 guarantors, if directly interested, may be given
36 information as to the items included in the measure and
37 amounts of any unpaid tax or amounts of tax required to
38 be collected, interest, and penalties.

39 SEC. 20. Section 60709 of the Revenue and Taxation
40 Code is repealed.

1 ~~60709. (a) Any person who willfully evades or~~
2 ~~attempts to evade or defeat the payment of the taxes~~
3 ~~imposed by this part is subject to a penalty. He or she shall~~
4 ~~for each offense be subject to a penalty of ten dollars (\$10)~~
5 ~~for every gallon of diesel fuel involved or one thousand~~
6 ~~dollars (\$1,000), whichever is greater. The penalty shall~~
7 ~~be increased for subsequent violations by multiplying the~~
8 ~~penalty amount by the number of prior violations. The~~
9 ~~penalty applies in any of the following circumstances:~~

10 ~~(1) If any dyed diesel fuel is sold or held for sale by any~~
11 ~~person for any use that the person knows or has reason to~~
12 ~~know is not a nontaxable use of the diesel fuel.~~

13 ~~(2) If any dyed diesel fuel is held for use or used by any~~
14 ~~person for a use other than a nontaxable use and that~~
15 ~~person knew, or had reason to know, that the diesel fuel~~
16 ~~was so dyed.~~

17 ~~(3) If any person willfully alters, or attempts to alter,~~
18 ~~the strength or composition of any dye or marker in any~~
19 ~~dyed diesel fuel.~~

20 ~~(b) Any business entity, and each officer, employee, or~~
21 ~~agent of the entity, who willfully participated in any act~~
22 ~~giving rise to the penalty is jointly and severally liable for~~
23 ~~the penalty.~~

24 SEC. 21. No reimbursement is required by this act
25 pursuant to Section 6 of Article XIII B of the California
26 Constitution because the only costs that may be incurred
27 by a local agency or school district will be incurred
28 because this act creates a new crime or infraction,
29 eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section
31 17556 of the Government Code, or changes the definition
32 of a crime within the meaning of Section 6 of Article
33 XIII B of the California Constitution.

34 Notwithstanding Section 17580 of the Government
35 Code, unless otherwise specified, the provisions of this act
36 shall become operative on the same date that the act
37 takes effect pursuant to the California Constitution.